

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

CYTOLOGIX CORPORATION,

Plaintiff,

v.

VENTANA MEDICAL SYSTEMS, INC.,

Defendant.

Civil Action No. 04-11783 (RWZ)

**CYTOLOGIX CORPORATION'S COMBINED MOTION FOR CLAIM
CONSTRUCTION AND SUMMARY JUDGMENT OF INFRINGEMENT**

Plaintiff CytoLogix Corporation ("CytoLogix") hereby moves for claim construction, and pursuant to Fed. R. Civ. P. 56, for summary judgment of infringement.

Defendant Ventana Medical Systems makes, uses and sells two instruments that bear the names "BenchMark XT" and "BenchMark LT". CytoLogix contends that use of these instruments infringes claims 1 and 2 of United States Patent No. 6,541,261 ("the '261 patent"), as properly construed. CytoLogix is the owner by assignment of the '261 patent. There are no disputed material facts surrounding this issue and CytoLogix is entitled to judgment as a matter of law.

WHEREFORE, CytoLogix moves for summary judgment of infringement. Filed with this Motion are a Memorandum in Support thereof, a Statement of Material Facts to Which there is No Genuine Dispute and a Declaration of Michael Zeliger, with exhibits.

FISH & RICHARDSON P.C.

Date: November 17, 2005

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CERTIFICATE OF SERVICE

I hereby certify that on the 17th day of November, 2005, a true and correct copy of the foregoing CYTOLOGIX CORPORATION'S COMBINED MOTION FOR CLAIM CONSTRUCTION AND SUMMARY JUDGMENT OF INFRINGEMENT was caused to be served on the attorney at the following address as indicated:

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